

the reference teachings. M.P.E.P. 2143.01. The Office Action must provide specific, objective evidence of record for a finding of a suggestion or motivation to combine the reference teachings and must explain the reasoning by which the evidence is deemed to support such a finding. *In re Sang Su Lee*, 277 F.3d 1338, 61 U.S.P.Q.2D 1430 (Fed. Cir. 2002). Mere conclusory statements do not fulfill the Office Action's burden. *Id.*

Applicant respectfully submits that the Office Action has not provided such evidence or explanation for a suggestion or motivation to combine. Instead, the Office Action merely characterized Shoff and Knee and then made the conclusory statement: "Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Shoff's interactive entertainment system with Knee's disclosed technique," without providing any objective evidence of record or reasoning to support the proposed modification.

If the Examiner is using personal knowledge, the Examiner is respectfully requested to submit an affidavit as required by 37 C.F.R. 1.104(d)(2).

(2) Even if combined, the cited references fail to teach or suggest all of the elements of applicant's claimed invention.

In order to support a finding of obviousness, the references must teach or suggest all the claim elements. M.P.E.P. § 2142 (citing *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed.Cir. 1991)).

Independent claim 1 recites: "at least one scheduled internet channel." The Office Action relied on elements 232-236 of Shoff, Fig. 8c, to describe a scheduled internet channel, but these elements merely describe clothes, posters, collectibles, memorabilia, or toys, which may be ordered by order button 237. *Shoff at column 12, lines 7-23*. Thus, elements 232-236 of Shoff do not teach or suggest a "scheduled internet channel" because elements 232-236 have no associated time characteristic. Independent claims 6, 15, 17, 19, and 20 include a similar element as argued above for claim 1 and are patentable over the references for similar reasons. Claims 2-5, 7-9, 11, 13, 14, 16, and 18 are dependent on claims 1, 6, 15, and 17, respectively, and are patentable over the references for the reasons argued above, plus the elements in the claims.

Conclusion

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney **Owen J. Gamon (612-371-2103)** to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 50-0439.

Respectfully submitted,

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Date May 7, 2002

By Rodney L. Lacy

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Box AF, Commissioner of Patents, Washington, D.C. 20231, on this 7<sup>th</sup> day of May, 2002.

**Candis B. Buending**

Name

Signature

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